



Office of the City Auditor

Sculpture Pad Program Report No. 0510A

June 27, 2006

The Cultural Council has not administered the Sculpture Pad Program as required by the Management Services Agreement. The Program has been inactive since 1992 and there have been no subsequent outreach efforts to promote the Program or gauge current interest in continuing the Program. The Downtown Group and Cultural Council staff recently brought this to the attention of the Joint Task Force on the Arts for consideration and direction.

CITY COUNCIL

Mayor
Mary Manross

Council
Betty Drake
Wayne Ecton
W.J. "Jim" Lane
Robert Littlefield
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June 27, 2006

To the Most Honorable Mary Manross, Mayor
and Members of the Scottsdale City Council

Transmitted herewith is a report on the Sculpture Pad Program, Report No. 0510A. This audit is a component of an overall audit for compliance with the City's Management Services Agreement with the Scottsdale Cultural Council.

We would like to thank staff at the Downtown Group and the Scottsdale Cultural Council for their cooperation and assistance during our audit.

If you need additional information or have any questions, please contact me at 480-312-7756.

Respectfully submitted,

Cheryl Dreska, CPA, CIA, CFE, CGFM, CISA, CISSP
City Auditor

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EXECUTIVE SUMMARY

An audit of the Scottsdale Cultural Council's compliance with requirements in the Management Services Agreement with the City was included in the 2005 Audit Plan for the Office of the City Auditor and carried over to the 2006 Plan. To facilitate the audit, the scope was broken into six components and reports will be issued for each component. This is the first of those reports.

Our work led us to conclude that the Cultural Council has not administered the Sculpture Pad Program as required by the Management Services Agreement. According to the Public Art Director, the Program, which began in 1991, was discontinued in 1992 after two rotations of sculptures. Since that time, the Cultural Council has made no effort to advertise, market, or implement this Program. The requirement, however, remained in the Management Services Agreement when it was renewed in 1997. We question whether City Council was (and is) aware that this Program is no longer being administered as required by the Management Services Agreement.

As part of our work, we attempted to locate the pads and determine if there were sculptures displayed. We determined that there were no sculptures on any of the pads. We also could not locate all of the pads and suspect they are not all there due to changes in the area over time; of 17 pads initially placed, only 10 were positively identified. Another 2 were possibly there but obstructed from view by objects placed on them. Only 3 of the pads located still had the plaque holder in place.

The Contract Administrator, in conjunction with the Public Art Director, recently brought forward this issue to the Joint Task Force on the Arts for direction. The Task Force agreed that the Ordinance should be rescinded and that the Task Force should attempt to find alternative ways of providing temporary art installations and encouraging emerging artists. If action is not taken to use the sculpture pads for temporary art, the City may want to consider removing or covering the pads.

The Action Plan on the next page discusses management's resolution to the issue discussed in this report.

ACTION PLAN

No.	Management Response
1	The Cultural Council is not administering the Sculpture Pad Program as required by the Management Services Agreement. It was abandoned in 1992 after two rotations. Since that time, no effort has been made to promote the Program or to conduct outreach efforts to determine interest in continuing the Program.
	<p>Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree</p> <p>Proposed Resolution or Reason for Disagreement: At its May 24, 2006 meeting, the Joint Task Force on the Arts voted to recommend that the Sculpture Pad Ordinance 2408 be rescinded and that the Task Force attempt to find an alternative way of providing temporary art installations and encouraging emerging artists. This recommendation will be forwarded to the City Council along with the other Task Force recommendations for the public art ordinances later this year.</p> <p>Responsible Party: Michelle Korf Completed By: 12/06</p>

SCOPE AND METHODOLOGY

The objective of this audit was to determine the steps taken to implement the Sculpture Pad Program. To address this objective, we:

- Reviewed the Management Services Agreement and Scottsdale City Code to identify significant compliance requirements to be used as criteria.
- Interviewed the Contract Administrator and Cultural Council Public Art Director to obtain an understanding of the current processes, procedures, and level of outreach to galleries.
- Reviewed the policies and procedures outlining selection criteria for sculptures that can be displayed on the pads.
- Reviewed the Council Action Report to determine the reason for the Ordinance.
- Attended Joint Task Force on the Arts meetings to gain an understanding of Task Force member thoughts about the Program.
- Obtained an inventory of sculpture pad locations and attempted to locate pads to verify that any sculptures on the pads displayed only information allowed by City Code.

Audit work was conducted in accordance with generally accepted government auditing standards as they relate to expanded scope auditing in a local government environment and as required by Article III, Scottsdale Revised Code, Section 2-117, *et seq.* Survey and fieldwork took place in May 2006 with Stella Fusaro conducting the work.

BACKGROUND

The Scottsdale Cultural Council is a nonprofit corporation formed in 1987 to provide advisory and management services with regard to arts and cultural programs and facilities of the City. It is the principal organization through which arts and cultural activities will be undertaken in the City. In June of 1988, the City and the Cultural Council entered into a Management Services Agreement. A revised Agreement between the City and the Cultural Council was entered into on October 7, 1997, for five years and allowed for two additional five-year renewal terms. The Agreement sets out the responsibilities of the Cultural Council in its role as administrator of the City's arts and cultural activities.

The Management Services Agreement

Responsibilities outlined in the Agreement include:

- Developing and administering a five-year plan for arts and culture in the City, which shall include:
 - Management of art facilities.
 - Capital development and construction of new facilities.
 - The Public Art Program.
 - Long range planning related to its responsibilities.
 - Sponsoring and supporting community programs and projects.
 - Developing and implementing programs and projects that enrich the cultural life of the City.
 - Planning and supporting programs that extend community arts resources to school age youth.
- Siting and selecting public art.
- Recommending the selection of artists for various projects.
- Advising the City on how various projects or plans affect cultural amenities.
- Preserving, maintaining, and exhibiting the fine art collection of the City.
- Accessioning and deaccessioning artwork.
- Administering:
 - Grants
 - Public Art Program
 - Cultural Improvements Program
 - Scottsdale Mall
 - Sculpture Pad Program

- Managing, operating, and programming the Scottsdale Center for the Arts and the Scottsdale Museum of Contemporary Art (managed facilities).
- Implementing an accounting system that complies with GAAP.
- Maintaining adequate insurance.

In Section 5.4 of the Agreement, the Cultural Council acknowledges that it is responsible for the Sculpture Pad Program set out in SRC, §20-121.1.

Scottsdale Revised Code

Sec 20-121.1. Public art program; sculpture pads.

(a) The city has determined that certain areas of the city, characterized in part by a large number of art galleries and artists' studios, would be enhanced by the display of sculpture art. Pads specifically designed for this purpose have been constructed by the city in the Fifth Avenue/Marshall Way Improvement District.

(b) The selection of sculpture works for exhibition under this section, their placement and the administration of the program shall be called the sculpture in public places program, which shall be a part of the city's public art program. The scope of the sculpture in public places program shall be determined by the availability of sufficient artwork which meets selection criteria developed for use in administering the program.

(c) Subject to any limitations imposed by this Code or by express contractual provision, the sculpture in public places program may be administered by the Scottsdale Cultural Council or other legal entity under contract to administer the public art program on behalf of the city. The city or any other legal entity administering the sculpture in public places program, including the Scottsdale Cultural Council, may charge fees to program applicants to assist in offsetting the costs of the program.

(d) No works of sculpture displayed pursuant to the sculpture in public places program, whether administered by the city, the Scottsdale Cultural Council or other legal entity, shall be displayed in any manner which suggests that the work is for sale, its monetary value or price. Information displayed with the work shall be limited to its title, the name of the artist, the city and state where the artist resides, the furnishing gallery, medium, year, and edition number, if applicable.

(Ord. No. 2408, §1, 11-4-91)

Sculpture Pad Program

The Scottsdale Gallery Association, Scottsdale Cultural Council, and property owners and merchants were involved in the development of the Sculpture Pad Program as part of the community effort to create a revitalized specialty retail and gallery district. The effort was funded through the Fifth Avenue/Marshall

Way Improvement District. These groups were also represented in the selecting and placement of the sculptures. The Program was envisioned as an opportunity for artists and galleries to display art, generate interest in sculpture, and reinforce downtown Scottsdale as a leading arts destination.

The Ordinance (2408) was approved by City Council in October 1991 with the first sculptures being placed by Thanksgiving of that year. There were seventeen concrete pads located in the Fifth Avenue/Marshall Way Improvement District. A map of the sculpture pads and locations can be found on page 7.

The Ordinance made it possible to recognize the Sculpture in Public Places Program as part of the City's Art in Public Places Program and, therefore, allowed the Cultural Council to administer the Program with no additional financial expenditure by the City. The Ordinance allows for the Cultural Council to charge fees to Program applicants to assist in offsetting the costs of the Program.

Sculptures were to be displayed for six months at a time. Cost to install and remove the sculptures, as well as insurance, were to be born by the artist or gallery. The Ordinance prohibits sculptures being displayed in a way that suggests that the work is for sale, its value, or price. Information allowed is limited to:

- Title
- Artist name
- City and state where the artist resides
- Furnishing gallery
- Medium
- Year and edition number

Selection Criteria

A panel made up of merchants, galleries, Cultural Council staff, and a City representative served as the selection panel. The primary criterion for selection of a sculpture is quality of the proposed artwork. In addition, the sculpture must meet the following specifications:

- A minimum vertical dimension of 3 feet.
- Cannot exceed vertical dimension of 15 feet.
- A maximum horizontal dimension of 10 feet.
- A wind envelope not to exceed 15 feet gross and 105 feet net.

- Maximum weight of 3,000 pounds.
- Maximum sculpture eccentricity of 2 feet.

Other considerations:

- The panel can limit the number of placements by individual artist and/or gallery during any given rotation period.
- The size and projection must be appropriate to the pads and locations.
- The panel will consider anchorability of artwork in determining selections.
- Fees must be paid by deadlines.
- Exceptions can be made but require detailed structural calculations to ensure safe placement.

The applicant is responsible for:

- Insurance.
- Installation and removal (coordinated by the Selection Panel).
- Fees associated with installation and removal. There is a non-refundable application fee of \$15 and a \$250 fee to cover installation, removal, plaque, and other Program costs if selected.
- Alternative anchoring systems (and cost) if needed.
- Delivery of the sculpture (and cost).
- Ensuring that the sculpture stays on display for the entire six-month exhibition period (even if sold).

What the Sculpture Pads Look Like Today



SOURCE: Auditor photograph taken on May 22, 2006, of pad located at Indian School and Fifth Avenue.



SOURCE: Auditor photograph taken on May 22, 2006, of second pad located at Indian School and Fifth Avenue.

OBJECTIVE: DETERMINE THE STEPS TAKEN TO IMPLEMENT THE SCULPTURE PAD PROGRAM.

Criteria

Under the Management Services Agreement, Section 5.4, the Cultural Council accepts the responsibilities for the Sculpture Pad Program set out in SRC, §20-121.1. (See Background, page 4.)

Condition

The Cultural Council is not administering the Sculpture Pad Program as required by the Management Services Agreement. It was discontinued in 1992 after two rotations due to lack of interest by the gallery owners. Since that time, no effort has been made to promote the Program or to conduct outreach efforts to determine interest in continuing the Program. Despite the fact that the Program was discontinued, the requirement for administering the Program remained in the 1997 Management Services Agreement. Currently, there are no sculptures on any pads. Pads have fallen into disrepair and some cannot be located. Only 10 of 17 sculpture pads were positively identified. Another 2 were possibly there but obstructed from view by objects placed on them. Only 3 of the pads located still had the plaque holder in place.

Cause

The Public Art Director and Contract Administrator indicated that the gallery owners initiated the Program but later lost interest due to a number of reasons including:

- Lack of sufficient interest and available sculptures.
- Problems with the anchoring systems.
- Desire for the Program to be entirely free to galleries and artists (e.g., City funded).
- Galleries desire to provide signage that identified artwork "for sale."
- Insurance issues resulting from the display of privately owned artwork in the public right of way.
- Concerns of vandalism to a sculpture exhibited along Scottsdale Road.

Effect

The Program is not being administered by the Cultural Council as required by the Management Services Agreement. Pads have fallen into disrepair and some cannot be located. Current gallery owners, who may be interested in displaying sculptures, may not be aware of the Program.

APPENDIX A – MANAGEMENT RESPONSE




The Downtown Group

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June 27, 2006

To: Cheryl Barcala, City Auditor
Stella Fusaro, Senior Auditor

From: Michelle Korf, Deputy Director 
Downtown Group

Re: Sculpture Pad Program Audit Report 0510A

Thank you for your recommendation regarding the Sculpture Pad Program. As you know, the Joint Task Force on the Arts, which includes three city council members, has been briefed on the status of this program and has accordingly made a recommendation to the City Council that this ordinance be repealed. That recommendation will be advanced to the City Council for consideration along with the Task Force's other recommendations for revision to the City's Public Art ordinances.

Cc: John Little, Executive Director, Downtown Group
Jim Green, Vice President and CFO, Scottsdale Cultural Council
Valerie Vadala Homer, Public Art Director, Scottsdale Cultural Council